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HOUSE BILL 88

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

R. DAVID PEDERSON

FOR THE DWI OVERSIGHT TASK FORCE

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING THAT ALL PERSONS CONVICTED FOR COMMITTING DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS BE FINGERPRINTED; REQUIRING THAT ALL PERSONS ARRESTED FOR COMMITTING DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS BE FINGERPRINTED; INCREASING A FEE; AMENDING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-3-1 NMSA 1978 (being Laws 1935, Chapter 149, Section 4, as amended) is amended to read:

"29-3-1. NEW MEXICO STATE POLICE--IDENTIFICATION AND INFORMATION. --

A. It ~~shall be~~ is the duty of the New Mexico state police to install and maintain complete systems for the

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1 identification of criminals, including the fingerprint system
2 and the modus operandi system. The New Mexico state police
3 shall obtain, from whatever source procurable, and shall file
4 and preserve for record, [~~such~~] plates, photographs, outline
5 pictures, fingerprints, measurements, descriptions, modus
6 operandi statements and such other information about, concerning
7 and relating to any and all persons who have been or who shall
8 [~~here-after~~] be convicted of a felony or who shall attempt to
9 commit a felony within this state or who are well-known and
10 habitual criminals or who have been convicted of any of the
11 following felonies or misdemeanors:

- 12 (1) illegally carrying, concealing or
13 possessing a pistol or any other dangerous weapon;
- 14 (2) buying or receiving stolen property;
- 15 (3) unlawful entry of a building;
- 16 (4) escaping or aiding an escape from prison;
- 17 (5) making or possessing a fraudulent or forged
18 check or draft;
- 19 (6) petit larceny; [~~and~~]
- 20 (7) unlawfully possessing or distributing
21 habit-forming narcotic drugs; and
- 22 (8) driving while under the influence of
23 intoxicating liquor or drugs.

24 B. The New Mexico state police may also obtain like
25 information concerning persons who have been convicted of

1 violating any of the military, naval or criminal laws of the
2 United States or who have been convicted of a crime in any other
3 state, country, district or province, which, if committed within
4 this state, would be a felony.

5 C. The New Mexico state police shall make a complete
6 and systematic record and index of all information obtained for
7 the purpose of providing a convenient and expeditious method of
8 consultation and comparison. "

9 Section 2. Section 29-3-8 NMSA 1978 (being Laws 1978,
10 Chapter 87, Section 1, as amended) is amended to read:

11 "29-3-8. FINGERPRINTING OF PERSONS ARRESTED--
12 DISPOSITION.--

13 A. Any person arrested for the commission of any
14 criminal offense amounting to a felony under the laws of this
15 state or any other jurisdiction shall be required by the
16 arresting peace officer to make fingerprint impressions.

17 B. Any person arrested for the commission of any
18 criminal offense not amounting to a felony but punishable by
19 imprisonment for more than six months under the laws of this
20 state or any political subdivision shall be required to make
21 fingerprint impressions.

22 C. A person arrested for violating a provision of
23 Section 66-8-102 NMSA 1978 or committing a violation of a
24 municipal or county ordinance prescribing criminal penalties for
25 driving while under the influence of intoxicating liquor or

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1 drugs shall be required by the arresting peace officer to make
2 fingerprint impressions.

3 [C-] D. Fingerprint impressions shall be made
4 pursuant to rules adopted by the New Mexico state police board,
5 and all felony arrest fingerprints shall be made in duplicate;
6 one copy shall be forwarded to the New Mexico state police and
7 one copy shall be forwarded to the federal bureau of
8 investigation in Washington, D. C.

9 [D-] E. One copy of the fingerprint impressions of
10 each person arrested under the provisions of Subsection B of
11 this section shall be forwarded to the New Mexico state police.
12 A copy may be sent to the [FBI] federal bureau of investigation
13 in Washington, D. C. if:

14 (1) there is a question of identity;

15 (2) a check of [FBI] federal bureau of
16 investigation files is considered necessary for investigative
17 purposes; or

18 (3) the individual is suspected of being a
19 fugitive. "

20 Section 3. Section 66-7-512 NMSA 1978 (being Laws 1990,
21 Chapter 57, Section 1) is amended to read:

22 "66-7-512. TRAFFIC SAFETY EDUCATION AND ENFORCEMENT FUND
23 CREATED. --

24 A. There is created in the state treasury the
25 "traffic safety education and enforcement fund". The fund shall

. 113204. 2

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1 be invested in accordance with the provisions of Section 6-10-10
2 NMSA 1978 and all income earned on the fund shall be credited to
3 the fund.

4 B. The traffic safety education and enforcement fund
5 shall be used to institute and promote a statewide program of
6 traffic safety through education and enforcement to reduce
7 serious and fatal traffic accidents and to provide for the
8 purchase of equipment and support services as are necessary to
9 establish and maintain the program.

10 C. No less than fifty percent of the money deposited
11 in the traffic safety education and enforcement fund shall be
12 allocated to the law enforcement agency that issued the
13 citation, provided the agency has submitted a traffic safety
14 program plan [~~which~~] that is approved by the traffic safety
15 bureau of the state highway and transportation department. Law
16 enforcement agencies shall use the money allocated from the fund
17 to purchase equipment, including equipment for making
18 fingerprint impressions of all persons arrested for or convicted
19 of driving while under the influence of intoxicating liquor or
20 drugs, and support services as are necessary to establish and
21 maintain a traffic safety program.

22 D. No less than twenty percent of the money
23 deposited in the traffic safety education and enforcement fund
24 shall be allocated to institute and promote traffic safety
25 education programs.

. 113204. 2

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1 E. The balance of the money deposited in the traffic
2 safety education and enforcement fund shall be allocated to
3 existing traffic safety programs.

4 F. The traffic safety bureau of the state highway
5 and transportation department shall adopt all rules, regulations
6 and policies necessary to administer a statewide traffic
7 program.

8 G. All money credited to the traffic safety
9 education and enforcement fund shall be appropriated to the
10 traffic safety bureau of the state highway and transportation
11 department for the purpose of carrying out the provisions of
12 this section and shall not revert to the general fund."

13 Section 4. Section 66-8-116.3 NMSA 1978 (being Laws 1989,
14 Chapter 320, Section 5, as amended) is amended to read:

15 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS-- ADDITIONAL
16 FEES.--In addition to the penalty assessment established for
17 each penalty assessment misdemeanor, there shall be assessed:

18 A. ten dollars (\$10.00) to help defray the costs of
19 local government corrections;

20 B. a court automation fee of ten dollars (\$10.00);

21 C. a traffic safety fee of [~~three dollars (\$3.00)]~~
22 five dollars (\$5.00), which shall be credited to the traffic
23 safety education and enforcement fund; and

24 D. a judicial education fee of one dollar (\$1.00),
25 which shall be credited to the judicial education fund."

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Section 5. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1997.

- 7 -

State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

January 29, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 88

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.**

Respectfully submitted,

Thomas P. Foy, Chairman

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FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: King, Luna, Sanchez

Absent: None

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FIRST SESSION, 1997

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

HB 88/a

3
4 March 17, 1997

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9
10 HOUSE BILL 88, as amended

11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. Strike House Appropriations and Finance Committee

15 Amendments

16 1 and 2.

17
18 2. On page 1, line 16, after "FEE;" insert "CREATING THE
19 BRAIN INJURY SERVICES FUND; IMPOSING A FEE;".

20
21 3. On page 1, line 16, after "AMENDING" insert "AND
22 ENACTING".

23
24 4. On page 4, between lines 19 and 20, insert the following
25 new section:

Section 3. Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter
62, Section 92, as amended) is amended to read:

. 113204.2

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

SJC/HB 88

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"35-6-1. MAGISTRATE COSTS-- SCHEDULE-- DEFINITION OF
"CONVICTED". --

A. Magistrate judges, including metropolitan court
judges, shall collect the following costs:

- Docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00
 - Docket fee, to be collected prior to docketing any other
criminal action, except as provided in Subsection B of
Section 35-6-3 NMSA 1978 20.00
 - Docket fee, ten dollars (\$10.00) of which shall be
deposited in the court automation fund, to be collected
prior to docketing any civil action, except as provided
in Subsection A of Section 35-6-3 NMSA 1978 47.00
 - Jury fee, to be collected from the party demanding trial
by jury in any civil action at the time the demand is
filed or made 25.00
 - Copying fee, for making and certifying copies of any
records in the court, for each page copied by
photographic process50
 - Copying fee, for computer-generated or electronically
transferred copies, per page 1.00.
- Proceeds from this copying fee shall be transferred to
the administrative office of the courts for deposit in
the court automation fund. Except as otherwise
specifically provided by law, docket fees shall be paid

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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into the general fund.

B. Except as otherwise provided by law, no other costs or fees shall be charged or collected in the magistrate or metropolitan court.

C. The magistrate or metropolitan court may grant free process to any party in any civil proceeding or special statutory proceeding upon a proper showing of indigency. The magistrate or metropolitan court may deny free process if it finds that the complaint on its face does not state a cause of action.

D. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate or metropolitan judge, either after trial, a plea of guilty or a plea of nolo contendere. Magistrate judges, including metropolitan court judges, shall collect the following costs:

- (1) corrections fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment \$10.00;

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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(2) court automation fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment 10.00;

(3) traffic safety fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle [~~3.00~~] 5.00;

[and]

(4) judicial education fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment 1.00; and

(5) brain injury services fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle 5.00.

E. Metropolitan court judges shall collect as costs a

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mediation fee not to exceed five dollars (\$5.00) for the docketing of small claims and criminal actions specified by metropolitan court rule. Proceeds of the mediation fee shall be deposited into the metropolitan court mediation fund."".

5. Renumber the succeeding sections accordingly.

6. On page 6, line 23, strike "and".

7. On page 6, line 25, strike the period and closing quotation mark and insert in lieu thereof "; and".

8. On page 6, after line 25, insert:

"E. a brain injury services fee of five dollars (\$5.00), which shall be credited to the brain injury services fund."".

9. On page 7, before line 1, insert the following sections:

"Section 5. Section 66-8-119 NMSA 1978 (being Laws 1968, Chapter 62, Section 159, as amended) is amended to read:

"66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION. --

A. The division shall remit all penalty assessment receipts, except receipts collected pursuant to Subsections A

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FIRST SESSION, 1997**

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through ~~Ø~~ E of Section 66-8-116.3 NMSA 1978, to the state treasurer for credit to the general fund.

B. The division shall remit all penalty assessment fee receipts collected pursuant to:

(1) Subsection A of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the local government corrections fund; ~~[the court automation fee collected pursuant to]~~

(2) Subsection B of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the court automation fund; ~~[the traffic safety fee collected pursuant to]~~

(3) Subsection C of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the traffic safety education and enforcement fund; ~~[and the judicial education fee collected pursuant to]~~

(4) Subsection D of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the judicial education fund; and

(5) Subsection E of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the brain injury services fund. "

"Section 6. [NEW MATERIAL] BRAIN INJURY SERVICES FUND

. 113204. 2

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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CREATED. --

A. There is created in the state treasury the "brain injury services fund". The fund shall be invested in accordance with the provisions of Section 6-10-10 NMSA 1978, and all income earned on the fund shall be credited to the fund.

B. The brain injury services fund shall be used to institute and maintain a statewide brain injury services program designed to increase the independence of persons with traumatic brain injuries.

C. The department of health shall adopt all rules, regulations and policies necessary to administer a statewide brain injury services program. The department of health shall coordinate with and seek advice from the brain injury advisory council to ensure that the statewide brain injury services program is appropriate for persons with traumatic brain injuries.

D. All money credited to the brain injury services fund shall be appropriated to the department of health for the purpose of carrying out the provisions of this section and shall not revert to the general fund. "".

10. Renumber the succeeding section accordingly,

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Vernon

Absent: None

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FIRST SESSION, 1997**

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 19, 1997

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 88, as amended

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Ben D. Altamirano, Chairman

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FIRST SESSION, 1997**

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Lyons, McKibben

Excused: Aragon, Eisenstadt, Ingle, Romero, Smith

Absent: None

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